

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9 remain active in this case, Claims 1-7 having been amended by the present amendment.

In outstanding Office Action, Claims 1 - 9 under 35 U.S.C. §101 as being directed to non-statutory subject matter; Claims 1, 4 and 7 were rejected under 35 USC §112, 2nd para., as being indefinite; Claims 1-20 [sic: 1-9] were rejected under 35 USC §102 as being anticipated by Underwood (US Patent 6,523,027); and Claims 1-9 were further rejected under the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-11 of U.S. Patent No. 6,714,946.

In light of the various grounds for rejection, Claims 1-7 have been amended to clarify the claimed invention and thereby resolve the issues raised by the several grounds for rejection. No new matter has been added.

Turning now to the rejection under 35 USC §101, it is noted that this rejection was based largely on the finding that the claims did not state a practical application having a concrete, useful and tangible result.

In response, independent Claims 1, 4 and 7 are amended above to clarify that the claimed invention is actually directed to a resource management system/method/product to be used in a data management system/method, and having as stated in Claim 1, for example,

... a plurality of data operation modules configured to operate data which have different operation functions; and

a resource manager having a data operation module management table to be used at a time of combining the data operation modules, the resource manager configured to receive a data operation request from the application program, refer to the data operation module management table and select and combine necessary data operation modules, and output the selected and combined data operation modules such that the application program can carry

out a desired operation by using the selected and combined data operation modules.
As is evident from the recited "resource manager" feature, this claimed element selects and combines necessary data operation modules and outputs the selected and combined data operation modules such that the application program can carry out a desired operation by using the selected and combined data operation modules. It is therefore believed to be apparent that Claims 1-9 are actually directed to a resource management aspect of the data management system shown in Fig. 3, for example, using the data operation modules 112 and the resource manager 11 having a data operation module management Table 21 (and data operation module managers 12). Accordingly, amended Claim 1, as well as Claims 4 and 7, recite a concrete, useful and tangible final result. Therefore, the outstanding rejection under 35 USC §101 is believed to have been overcome, and withdrawal thereof is respectfully requested.

In response to the rejection of Claims 1, 4 and 7 under 35 USC §112, 2nd para., as being indefinite, Claim 1 is presently amended to replace the phrase "make a set up" with replacement language, "select and combine necessary data operation modules, and output the selected and combined data operation modules such that the application program can carry out a desired operation by using the selected and combined data operation modules." Similar replacement language has been added in regard to amended Claims 4 and 7. Accordingly, it is respectfully submitted that amended Claims 1, 4 and 7 are definite under 35 USC §112, 2nd para., and withdrawal of this ground for rejection is believed to be in order and is respectfully requested.

Applicants respectfully traverse the outstanding ground for rejection of Claims 1-9 under 35 USC §102 as being anticipated by Underwood on the basis that the amended claims patentably define over this reference.

In particular, as clarified above, Claim 1 is now specifically directed to a resource management system to be used in a data management system for applying operations on data outputted from a data storage system and outputting data to processing of an application program. In this resource management system, upon receiving a data operation request from the application program, the resource manager refers to a data operation module management table of a plurality of data operation modules for operating data which have different operation functions, selects and combines necessary data operation modules, and outputs selected and combined data operation modules such that the application program can carry out a desired operation by using the selected and combined data operation modules.

In contrast, Underwood only describes a system for providing an interface between a first server and a second server with a proxy component situated therebetween. Applicants consider that such teachings are not relevant to the claimed resource management system to be used in a data management system for applying operations on data outputted from a data storage system and providing data to a processing of an application program because the resource management system of the claimed invention has absolutely nothing to do with an interface between servers.

Moreover, Underwood clearly fails to disclose any system which has a plurality of data operation modules for operating data which have different operation functions, and a resource manager for managing resources provided by these data operation modules. In particular, Underwood completely fails to disclose any resource manager which selects and combines necessary data operation modules and outputs selected and combined data operation modules in response to a data operation request received from an application program, such that the application program can carry out a desired operation by using the selected and combined data operation modules.

In point of fact, in view of the apparent lack of relevance of Underwood, it is not clear to Applicants exactly which parts of Underwood are being quoted because the outstanding Office Action uses paragraph numbers which are not provided in Underwood itself. It is also pointed out that the outstanding Office Action fails to quote the paragraph numbers for the claimed data operation modules so that Applicants cannot ascertain which elements of Underwood are considered as equivalent to the claimed data operation modules.

Consequently, Applicants also cannot ascertain which element of Underwood is considered as equivalent to the claimed resource manager which is required to manage the data operation modules. However, Applicants respectfully submit that it is apparent from the abstract and the summary of the invention of Underwood that Underwood is not at all related to a management of resources provided by a plurality of data operation modules with different operation functions by selecting and combining necessary data operation modules.

Consequently, it is respectfully submitted that Underwood does not include a specific teaching anticipating the resource management system of Claim 1 or similar limitations stated in Claims 4 and 7, and that the outstanding rejection under 35 USC §102 is groundless. Withdrawal of this ground for rejection is also believed to be in order and is also respectfully requested.

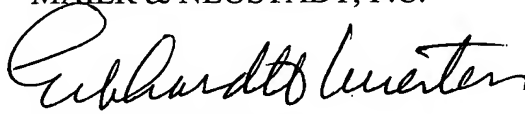
In response to the rejection of Claims 1-9 on the ground of nonstatutory obviousness-type double patenting, submitted herewith is a duly executed terminal disclaimer to overcome this rejection.¹

¹ Applicants otherwise do not acquiescence with the double patenting rejection, as per *Quad Environmental Technologies Corp. v. Union Sanitary District*, 20 USPQ2d 1392, 1394-1395 (Fed. Cir. 1991) where the Federal Circuit reaffirmed that "the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of "obviation" into an admission or acquiescence or estoppel on the merits." See also *Paperless Accounting, Inc. v. Bay Area Rapid Transit System*, 804 F.2d 659, 663-

Consequently, in view of the present amendment and in light of the above comments, no further issues are believed to be outstanding, and the application as amended herewith is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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64, 231 USPQ 649, 652 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 933 (1987) (no presumption of acquiescence in the merits of the rejection by refiling the application). ...”